

## **REMARKS**

### **A. THE REJECTIONS UNDER 35 U.S.C. § 102**

Claims 1, 3-4, 8-12, 16-20, 22-23, 27-29, 33-37, and 41-49 were rejected under 35 U.S.C. §102(b) as being anticipated by newly cited U.S. Patent No. 6,141,565 to Feuerstein et al ("Feuerstein"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Initially, the Applicants note that of the rejected claims, only claims 1, 3, 8-10, 20, 22, 27 and 37 remain pending. Of these claims, claims 1, 20 and 37 are independent. It is to these independent claims that Applicants direct their comments, it being understood that the following comments apply to the remaining dependent claims as well.

#### **(i) Independent Claims 1, 20 and 37**

Claims 1, 20 and 37 include the feature of setting a number of base stations, from a list of potential hand-off base stations, that can be considered hand-off base stations to a number that is below an initial number to prevent undesired fluctuations in call blocking and call dropping rates depending on the measured traffic flow criteria.

In contrast, as the Examiner acknowledges Feuerstein does not disclose setting a number of base stations making up a list of potential base stations to a number that is below an initial number to prevent undesired fluctuations in call blocking and call dropping rates (i.e., overload traffic conditions) (see page 5).

Accordingly, it follows that Feuerstein does not disclose each and every element of the independent claims and, therefore, cannot anticipate these claims (or their dependent claims) based on §102(b). Applicants respectfully request withdrawal of the rejections and allowance of claims 1, 3, 8-10, 20, 22, 27 and 37.

**B. THE REJECTIONS UNDER 35 U.S.C. § 103**

**(i) claims 2, 5-7, 13-15, 21, 24-26, 30-32 and 38-40**

Claims 2, 5-7, 13-15, 21, 24-26, 30-32 and 38-40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Feuerstein in view of Celedon et al., U.S. Pub. Pat. Appl. No. 2003/0190916 ("Celedon"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Initially, the Applicants note that of the rejected claims, only claims 7 and 26 remain pending. Further, because these claims depend on either independent claim 1 or 20 these claims are patentable over the combination of Feuerstein and Celedon for the reasons set forth above and because Celedon does not overcome the deficiencies of Feuerstein.

For example, as explained above Feuerstein does not disclose the feature of setting a number of base stations, from a list of potential hand-off base stations, that can be considered hand-off base stations to a number that is below an initial number to prevent undesired fluctuations in call blocking and call dropping rates depending on measured traffic flow criteria.. Though the Examiner appears to take the position that Celedon makes up for this deficiency because Celedon discloses "varying the size of [a] neighbor list so that the size is set

below an initial size to prevent a return to an overload traffic condition” (page 5), this is not the case.

Instead, Celedon appears to discuss the removal of a “cell” from a “neighbor list” based on signal strength measurements, not traffic conditions.

**(ii) claims 50-52**

The Applicants submit that claims 50-52 are patentable over the combination of Feuerstein and Celedon for the reasons set forth above.

In addition, Celedon does not appear to disclose setting the number of base stations making up its neighbor lists using both measured traffic flow criteria and hysteresis parameters as in claims 50-52. To the contrary, Celedon is completely silent with respect to this feature of Applicants’ invention.

Applicants therefore request withdrawal of the rejections and allowance of claims 7, 26 and 50-52.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge any underpayment or non-payment of any fees required under 37 C.F.R. §§ 1.16 or 1.17, or credit any overpayment of such fees, to Deposit Account No. 50-3777, including, in particular, extension of time fees.

Respectfully submitted,

**CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC**

By: /John E. Curtin/  
John E. Curtin, Reg. No. 37,602  
P. O. Box 1995  
Vienna, Va. 22183  
(703)266-3330